

11-CV-00037-RESP

(pgs 78-77)

EXHIBIT E

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EXCLUSIVE DESIGN AGREEMENT

DESIGN OWNER: CHASSIDY LUCAS-MELLOR
2914 84TH AVE COURT WEST
UNIVERSITY PLACE, WA 98466

MANUFACTURER: METROCHEM, INC DBA ENVIROMET
PO BOX 907
VANCOUVER, WA 98666

DESIGN/TRADEMARK: SEA LIFE SAVER LINER

This agreement is between the DESIGN OWNER and the MANUFACTURER regarding the SEA LIFE SAVER LINER. METROCHEM, INC DBA ENVIROMET agrees to manufacture the SEA LIFE SAVER LINERS exclusively for CHASSIDY LUCAS-MELLOR under its current design as provided by DESIGN OWNER.

Any and all changes or improvements to the design must be approved and authorized by the DESIGN OWNER.

This agreement does not prevent MANUFACTURER from selling, designing, manufacturing other products and catch basin inserts to other customers in any market place.

Pricing:

DESIGN OWNER agrees to purchase SEA LIFE SAVER LINERS from manufacturer at agreed price. MANUFACTURER will notify DESIGN OWNER at least 30 days prior to any price changes.

Terms:

CHASSIDY LUCAS-MELLOR will receive NET 30 DAY terms on all shipments. CHASSIDY LUCAS-MELLOR and affiliates must keep its account current, or credit terms will be adjusted.

Freight and shipping:

Freight will be FOB Vancouver, WA. Other shipping terms to be determined at time of inquiry or order.

Cancellation or Termination:

This agreement may not be cancelled without cause. Cause for termination may only include: failure to perform or to achieve mutually established and reasonable goals, default, closure of business, breach of exclusivity, or other mutually agreed reason.

It is understood that in the event the business relationship between METROCHEM, INC DBA ENVIROMET and CHASSIDY LUCAS-MELLOR is terminated, the specific design of the SEA-LIFE SAVER LINERS owned and trademarked by CHASSIDY F. LUCAS-MELLOR. METROCHEM INC, DBA ENVIROMET may not manufacture this product for any other customer.

Insurance:

DESIGN OWNER agrees to carry all sufficient product liability insurance and to hold METROCHEM, INC DBA ENVIROMET harmless from all product liability.

Roni R. Sasaki 10/14/02
METROCHEM INC DBA ENVIROMET Date
Roni R. Sasaki, President

CHASSIDY LUCAS-MELLOR

Date

10.12.02

1 Roni Sasaki and Enpac have manufactured and distributed many versions of liners that they have
2 labeled patent no. 7,201,843 and other patent labels. In 2003 it was first called the patent pending
3 "Drain Web" from Spider Environmental. See exhibit "F"

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EXHIBIT F



....Because a little spill
goes a long way

Storm water runoff carries with it dirt and hydrocarbons that pollute our downstream supplies. The Drain Web traps these pollutants, reducing and controlling the entrance of contaminants into our water systems.

Adjustable Catch Basin Insert

PATENT PENDING

* The DRAIN WEB is a simple device supported by a wire frame. Rectangular or round models both adjust to fit a variety of drain sizes. The entire unit is under the grate, no excess fabric extends above the grate, creating a safer environment for pedestrians. No trimming required.



* The DRAIN WEB is an inexpensive, easy to use Best Management Practice (BMP), a vital part of any Storm Water Pollution Prevention Plan.

* The first step to comply with the stringent new EPA standards.

Specifications:

Size: Adjusts to Rectangular Drains; smallest 16"X20"; largest 24"X34"
Bag=22" Deep; Opening=10", Round adjust from 27" to 29" diameter.

Material: 8 oz Polypropylene, Non-Woven Geotextile Fabric

Flow Rate: Maximum overflow rate = up to 300 gallons per minute.
The Drain Web has overflow outlets to allow excessive water from heavy rain showers to bypass the system, reducing the chance of flooding or ponding.

Removes: Oil, Grease, Sediment, Litter, Debris

Disposal: Disposal is dependent on nature of pollutants being collected. Disposal should be in accordance to local, state and federal regulations.

Weight: Empty = Oil & Sediment units are approx. 2.5 lbs.
Sediment only units are approx 2 lbs.
Full = Weight of empty unit plus weight of sediment and water trapped in unit.
Dry sediment could weigh 30-50 pounds. Fully loaded, wet units can weigh approximately 85-135 pounds.

To Install:

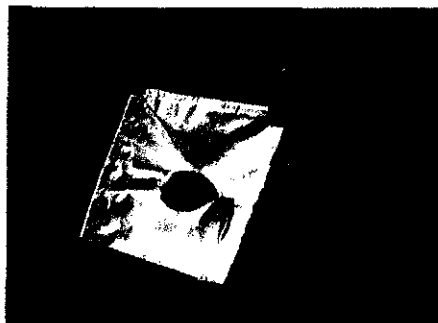
1. Remove the grating.
2. Insert the bag into the basin and extend the wire frame to fit the inside lip of the catch basin. This is done by gently pulling on the corners of the frame. They can be pulled out or pushed in until the size is correct.
3. Replace the grating.



To Remove:

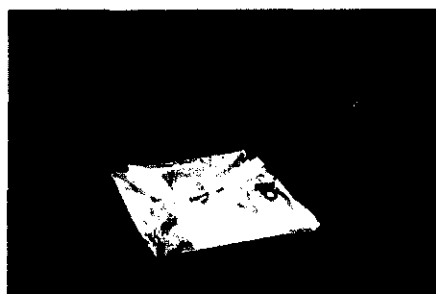
1. Remove the grating. The wire frame holds the unit securely in place even when loaded.
2. Remove the insert using the pull strap.
3. Properly dispose of the used insert or empty it to use again.





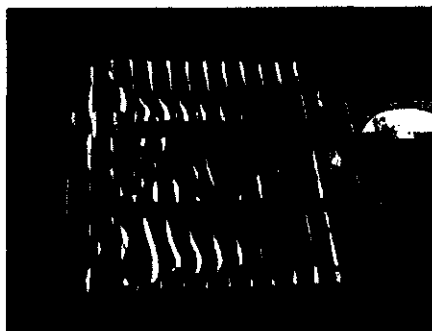
To Install:

Remove grate and adjust wire frame to fit in recess. Place insert into recess and frame into the corners.



Replace metal grate.

No part of Drain Web extends above the surface.



To Remove:

Lift the grate and pull out insert. Insert does not fall into basin, even when fully loaded. Install new insert and dispose of used insert according to company policy and all applicable laws.





....Because a little spill
goes a long way

Adjustable Catch Basin Insert

New From:
Spider Environmental
PO Box 582
Vancouver, WA 98666

Drain Web Price List Effective 1/30/03				
	Part Number	Distributor 51+ Units	Distributor 10-50 Units	Distributor 1-9 Units
Drain Web Oil & Sediment	DWOS-REC <i>(rectangle)</i> DWOS-RND <i>(round)</i>	\$42.00	\$44.10	\$46.30
Drain Web Sediment Only	DWSED-REC <i>(rectangle)</i> DWSED-RND <i>(round)</i>	\$25.50	\$26.60	\$27.35
Replacement mini-boom 5"x15"	DWBOOM	\$4.50	\$4.95	N/A
<i>prices are per unit</i> <i>specify round or rectangle</i>				

Call: 360-944-9563 or 800-590-2436

Fax: 360-896-2456

1 In 2003 the "Drain Web" was then called the "flo guard" and "Storm Sentinel" by Enpac
2 Corporation.

3 See Enpac the first augmentation and distribution of liners beginning with Thomas Net NEWS
4 exhibit "G"

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EXHIBIT G

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Prevent storm water pollution with the

- Durable 8 oz nonwoven gec
- Maximum overflow rate of 3
- Collects sediment, litter and
- Optional nonleaching copoly hydrocarbons.
- Fits rectangular drains from 27" to 29".

Spill Control - Drain Seals**Spill**

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Estimated Shipping Charges: We have Subtotal. Actual shipping charges will and actual weights are known.

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Prevent storm water pollution with the easy-to-use Flow Guard Adjustable Catch Basin Insert.

- Durable 8 oz nonwoven geotextile fabric.
- Maximum overflow rate of 300 gpm limits the possibility of flooding.
- Collects sediment, litter and other runoff debris in rectangular or circular drains.
- Optional nonleaching copolymer sock captures up to one gallon of oil or other hydrocarbons.
- Fits rectangular drains from 16 x 20" to 24 x 34" and round drains with diameters from 27" to 29".

Spill Control - Drain Seals

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Drain Cover Drain Seals**
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Spill Control - Drain Seals

**Enpac Corporation
Flow Guard™ Adjustable Catch
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UltraTach Drain Guard®**
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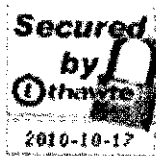
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		ENP1340	1340	Flow Guard, Sediment Only, Round, Weight: 3 lbs	Each	\$64.53 Buy 5 or more SAVE \$3.23 Per Unit	<input type="text"/>	<input type="checkbox"/>
		ENP1341	1341	Flow Guard, Sediment Only, Rectangular, Weight: 3 lbs	Each	\$64.53 Buy 5 or more SAVE \$3.23 Per Unit	<input type="text"/>	<input type="checkbox"/>
		ENP1343	1343	Flow Guard, Sediment and Oil w/ Sock, Round, Weight: 3 lbs	Each	\$92.58 Buy 5 or more SAVE \$4.63 Per Unit	<input type="text"/>	<input type="checkbox"/>
		ENP1344	1344	Flow Guard, Sediment and Oil w/ Sock, Rectangular, Weight: 3 lbs	Each	\$92.58 Buy 5 or more SAVE \$4.63 Per Unit	<input type="text"/>	<input type="checkbox"/>

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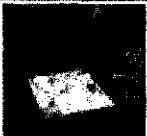



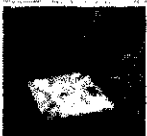

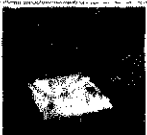
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		ENP1340	1340	Flow Guard, Sediment Only, Round, Weight: 3 lbs
		ENP1341	1341	Flow Guard, Sediment Only, Rectangular, Weight: 3
		ENP1343	1343	Flow Guard, Sediment and Oil w/ Sock, Round, Wei
		ENP1344	1344	Flow Guard, Sediment and Oil w/Sock, Rectangular

How To Do Stormwater Sampling

A guide for industrial facilities



Washington State
Department of Ecology
December 2002 (rev. 1/05)
Publication #02-10-071



Catch Basin Insert complies with EPA storm-water regulations., Enpac Corp. - _normalSt... Page 1 of 6

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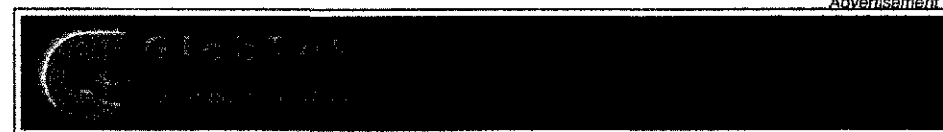
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Catch Basin Insert complies with EPA storm-water regulations.

July 10, 2003 - STORM

SENTINEL[®], a Adjustable Catch Basin Insert eliminates non-point-source oil and other contamination of water supplies. Insert, with optional Non-Leaching Co-Polymer sock, traps oil, grease, sediment, litter, and debris carried in runoff. Self-supporting product, made of 8 oz, non-woven, geotextile fabric, has overflow rate of 300 gpm max. Rectangular type fits drains from 16 x 20 to 24 x 36 in, while round type fits drains with 27" diameter.



Catch Basin Insert complies with EPA storm-water regulations.

[Click Here to Enlarge Picture](#)

(Archive News Story - Products mentioned in this Archive News Story may or may not be available from the manufacturer.)

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Were you aware of this company or its products before seeing this new product announcement or company news item?

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► [Stormwater Chamber meets standards for deep burial.](#)

Original Press Release

Enpac Corp.
34355
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Eastlake, OH, 44095, USA

**STORM
SENTINEL
Stormwater
Products Line**

June 12, 2003.
EASTLAKE, OHIO:

Catch Basin Insert complies with EPA storm-water regulations., Enpac Corp. - _normalSt... Page 2 of 6

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- ▶ [Dewatering Bag helps comply with EPA requirements.](#)
- ▶ [Stormwater Chamber offers storage capacity of 52.2 ft³/unit.](#)
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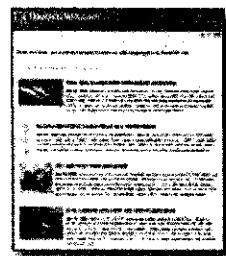
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ENPAC Corporation announces the addition of their new STORM SENTINEL(tm) stormwater products line to its extensive and award-winning line of Portable Spill Containment Products. ENPAC's unique Adjustable Catch Basin Insert will be the leadoff product in the line.

"Small oil drips and leaks can cause big problems when washed off of work surfaces and streets and into the storm sewer. This new product is critical to compliance with the federal mandate to eliminate non-point-source oil and other contamination of water supplies called out in the EPA Storm Water Regulations", according to Chris Hilty, ENPAC VP of Sales & Marketing. "STORM SENTINEL (tm) is always on duty to protect our water supply" says Mr. Hilty.

"ENPAC's new STORM SENTINEL(tm) Adjustable Catch Basin Insert is an inexpensive, easy-to-use Best Management

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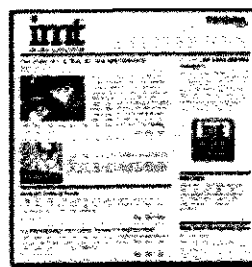
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Practice which is a vital part of any Storm Water Pollution Prevention Plan and the first step to comply with stringent new EPA regulations", states Mr. Hilty. The STORM SENTINEL(tm) Adjustable Catch Basin Insert (w/optional Non-Leaching Co-Polymer sock) traps oil, grease, plus sediment, litter, and/or debris carried in runoff that pollutes water downstream.

The catch basin insert is completely self-supporting, and is made of durable 8 oz non-woven geotextile fabric and has a maximum overflow rate of 300 gpm, which reduces the chances of flooding or ponding. Rectangular type adjusts to fit drains from 16"x20" to 24"x36". Round type adjusts to fit drains from 27" to 29" diameter. The Non-Leaching Co-Polymer sock captures and encapsulates up to 1 gallon of oil or other hydrocarbon. Installs in minutes!

ENPAC Corporation is

Catch Basin Insert complies with EPA storm-water regulations., Enpac Corp. - _normalSt... Page 4 of 6

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Laura A. Langhans

ENPAC Corporation

Customer Service

Phone: 800-936-7229
ext 320

Fax: 800-993-6722

Email:
laural@enpac.com

Website:
www.enpac.com

Contacts:

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information.](#)

**More New Product
News from this
company:**

1 The so called Storm Sentinel took on various names shapes and sizes, some demonstrated
2 characteristics of the "drain diaper" and many took on characteristics of the "silt sack" In one
3 instance you will find both augmentation of "silt sack and "drain diaper on the same
4 advertisement it is even displayed with an invalid patent number as U.S. Patent No. 7,2101,843.
5 See exhibit "H"

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EXHIBIT H

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STORM SENTINEL™ ADJUSTABLE CATCH BASIN INSERT

The Storm Sentinel Drain Protection Inserts help companies comply with Stormwater Pollution Prevention Plans and Stormwater Best Management Practices by protecting your storm drains and catch basins. It's the sure way to catch oil and sediment headed into storm drains and sewers. Equipped with an oil-absorbent media

in a screened bag, The Storm Sentinel guards against any potential discharge.

STORM SENTINEL™

Regulations: EPA, SPCC and NPDES

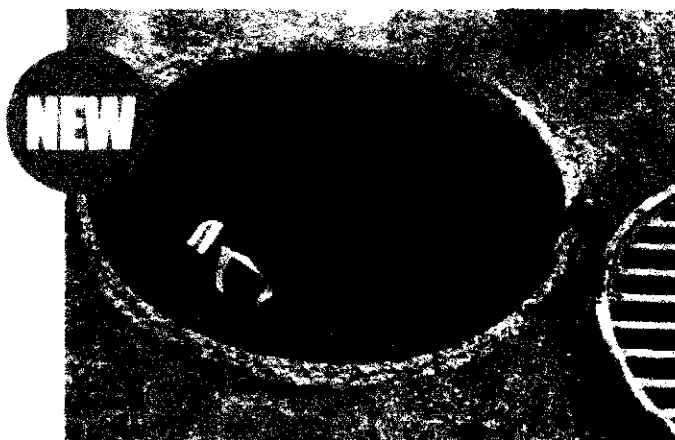
Product No.: 1340
Description: Sediment Only, Round
Weight: 2 lbs. / 1 kg

Product No.: 1341
Description: Sediment Only, Rectangular
Weight: 2 lbs. / 1 kg

Product No.: ENP-IE0077
Description: Non-leaching
Hydrocarbon Packet

Product No.: 1343
Description: Sediment & Oil, (w/packet)
Round
Weight: 4 lbs. / 2 kg

Product No.: 1344
Description: Sediment & Oil, (w/packet)
Rectangular
Weight: 3 lbs. / 1.4 kg



- Fits any size rectangular catch basin up to 24" x 36" and round basins up to 24" x 26".
- Custom sizes available
- 300 GPM overflow rate helps avoid ponding.
- Requires no special tools to install.
- Helps comply with NPDES, 40 CFR 122.26 (1999) when used as Best Management Practice in Storm Water Pollution Prevention Plans.



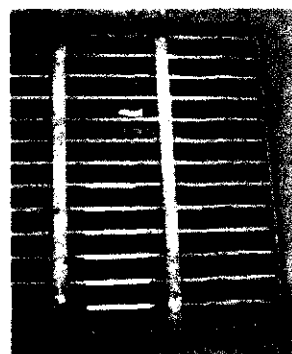
TO INSTALL: Remove grate and adjust wire frame to fit in recess.



Place insert into recess and frame into corners.



Replace metal grate.



No part of the insert extends above the surface.



TO REMOVE: Simply lift the grate, grab the handle and pull out the insert.

Insert won't fall into the basin, even when fully loaded. Dispose of the used insert according to company policy and all applicable laws and regulations.

GREAT FOR USE IN:

- Industrial Facilities
- Construction Sites
- Parking Lots
- Drive-Up Retail Facilities

U.S. Patent No. 7,210,843



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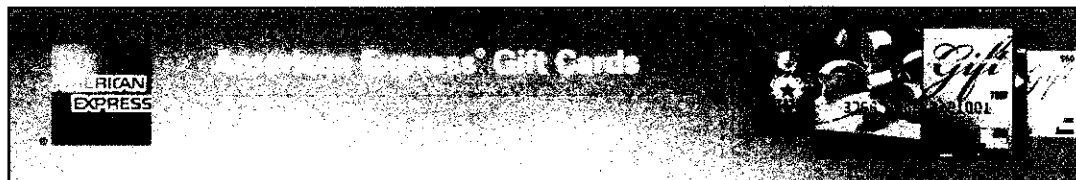
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Enpac 1344 Catch Basin Insert

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\$122.55

[See new & used prices \(1\) »](#)

Product Description: Enpac 1344 Catch Basin Insert

Enpac Catch Basin Insert 1344 Catch Basin Insert Spill Containment Accessories Catch Basin Insert
300 Gallons per Minute Flow Capacity Adjustable t

Compare Prices: Enpac 1344 Catch Basin Insert

Tax & shipping for ZIP code:

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Store	Store Rating	Price	Notes/Coupons
Amazon.com Marketplace	96 Ratings (81 Reviews)	<u>\$122.55</u> Total Price N/A Unknown Tax	New Item

1 This eventually resulted in the favor of the "Silt Sack" Here is a statement of the distributor of
2 the "Silt Sack" regarding Enpac illegal business approaches, and history of infringement. Also
3 the version of "Storm Sentinel" the court ordered Enpac to discontinue is still currently being
4 sold today to foreign countries by an Enpacs division called "Enware". See Exhibit "T"

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EXHIBIT I

Bianca Lucas

From: Mark Shaw [mark@spillcontainment.com]
Sent: Wednesday, January 12, 2011 4:30 AM
To: biancalucas@stormwaterpure.com
Subject: Upcoming trial
Attachments: image003.gif; image004.jpg

Hi Bianca. Thank you for notifying us about the upcoming trial against Enpac. We wish you success in your effort.

I am not able to attend due to other obligations but I would like to share the following information with you. I am not sure if any of it will help or can be used, but better to share this with you than not.

1. Enpac has shown a history of infringing and not living up to their agreements. UltraTech has sued them three times, twice for patent infringement and settled to our satisfaction. In both cases they had to change the product and stop selling the version they had been selling. The third suit was to get them to complete the terms of their settlement agreement. We also sent them a letter regarding false marking of a patent number which they subsequently ceased doing. I believed they were sued by a company named Aire for breaching a contract. They also were charged with bribing state DOT officials, submitting false invoices and other illegal activities in their attempt to win Ohio DOT contracts. This certainly shows a trend in how they do business.
2. ACF sued Metrochem for patent infringement on the "DrainGuard" patent (UltraTech's product). UltraTech is the exclusive licensee and ACF owns the patent. During the settlement of that initial suit, Metrochem formed a new company Spyder Environmental and was working on a new adjustable frame design catch basin insert during those settlement discussions. They were sued again after they came out with the new design and they filed two patent reexamination requests. The end result was a settlement and Metrochem/Spyder/Sasaki had to change their design and they came out with the unformed bag design (that they had an agreement to make only for you, as I understand it).
3. From what I can tell, I think the initial manufacturing agreement you had with Roni has some importance in this case. While they could make the unformed bag as a way to avoid infringing the ACF "DrainGuard" patents and that was part of a settlement agreement, it appears they had a previous agreement stating they would not make a bag type insert for anyone but you. You had taught them about that design and about the stormwater market in general. So if they cannot make a bag with a skirt or else they would infringe on ACF/UltraTech, and if they cannot make a unformed bag design per their agreement with you, then they would not seem to have any options for making their product for Enpac to sell. That would be one means to get them out fo the market.

If you need any affidavits or if there is anything else I can do for you, please let me know. Good luck.

UltraTech Logo master copy2

Mark Shaw • Co-President

UltraTech International, Inc.

11542 Davis Creek Court Jacksonville, FL 32256 USA

800.353.1611 x 205 904.292.1611 x 205

Fax: 904.292.1325

Mark@SpillContainment.com

[cid:image002.gif@01CAF835.F9030400](#)

UltraTech was voted the # 1 rated place to to work in Northeast Florida, 2010

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<<http://www.stormwater-products.com/>>


Facility Protection <<http://www.facilityprotection.com/>> * Construction Compliance
<<http://www.constructioncompliance.com/>>

RadWaste Management <<http://www.radwasteproducts.com/>>

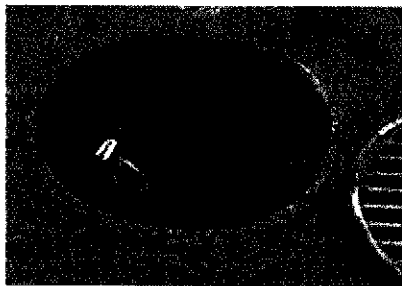
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- Australia's leading tapware and safety systems

Enware Pty Ltd
Specialists in Stormwater Management Solutions

Portable Spill Containment > E1340  PPE Friendly

Product Group: E1340



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Storm Sentinel Adjustable Catch Basin Insert

Adjustable Catch Basin Insert

Catch oil and sediment headed into storm drains and sewers.

The Storm Sentinel Drain Protection Inserts help companies comply with Stormwater Pollution Prevention Plans and Stormwater Best Management Policies by protecting your storm drains and catch basins.

Insert won't fall into the basin, even when fully loaded.

- Fits any size rectangular catch basin up to 61 x 91cm and round basins up to 61 x 66cm
- Custom sizes available
- 1135 litres per minute overflow rate helps avoid ponding.
- Requires no special tools to install.

Order codes

E1340 - Storm Sentinel Adjustable Catch Basin Insert - Settlement only - suitable for round drains

E1341 - Storm Sentinel Adjustable Catch Basin Insert - Settlement only - suitable for square drains

E1343 - Storm Sentinel Adjustable Catch Basin Insert - Settlement & Oil with non-leaching Hydrocarbon Packet - suitable for round drains

E1344 - Storm Sentinel Adjustable Catch Basin Insert - Settlement & Oil with Non-leaching Hydrocarbon Packet - suitable for square drains

E1342 - Replacement Non-leaching Hydrocarbon Packet

Applications

Industrial Facilities, Construction, Parking Lots, drive-up retail Facilities,

Details

Finish Options

N/A

Colour Indicators

N/A

Resources

E1340 Brochure - PDF



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